

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|--------------------------------------|---|-----------------|
| ELLIS FRANKLIN, |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 2:05-CV-00136-B |
| |) | [WO] |
| CHARLIE C. WILLIAMS, <i>et al.</i> , |) | |
| Defendants. |) | |

ORDER ON MOTION

After due consideration of *Defendants' First Consolidated Motion in Limine* (Doc. 32, May 1, 2006), *Plaintiff's Objection* (Doc. 52, May 8, 2006), relevant pleadings, and the PreTrial Order, it is **ORDERED** as follows:

A. DISPUTED MATTERS

- (2) Any testimony or argument by Plaintiff, Plaintiff's Counsel, and/or any witness concerning allegations of spoliation by the Defendants in regard to missing C-4 Cards from the accident at issue

Defendants' Motion in Limine is **DENIED** without prejudice for reconsideration at trial if any C-4 cards are offered, admitted, and an evidentiary basis is proffered for the contention of spoliation.

- (3) Any testimony, opinions or argument expressed by Plaintiff or any other witness, or argument by counsel related to the Plaintiff having arthritis in his leg or hip due to this accident.

Whether the Plaintiff has accident-related arthritis in his leg or hip is an evidentiary fact not determinable or properly to be determined by the court at this time; the proffered deposition testimony of Plaintiff's doctor clearly relates to opinions for which he had a basis as of the date of his deposition, and the court declines to speculate that any opinions offered at trial will not have a

foundation beyond that date. *Accordingly, Defendants' Motion in Limine* is **DENIED** without prejudice for reconsideration in the context of the specific testimony and/or arguments.

- (5) Any testimony, opinions or argument expressed by the Plaintiff or any other witness, or argument or comment by counsel related to claims for future lost wages as a result of this accident

Defendants' Motion in Limine is **DENIED** without prejudice for reconsideration in the context of the specific testimony and/or arguments.

B. UNDISPUTED MATTERS:

For good cause shown, *and without opposition from Plaintiff, Defendants' Motion in Limine* is **GRANTED** with respect to the following-numbered motions in limine:

- (1) The Alabama Uniform Accident Report concerning the collision which forms the basis of this lawsuit, as well as the conclusions reached therein as to fault, and/or any testimony or opinion evidence by any police witness as to the conclusions reached in the Report, and/or who they believe to be at fault in the accident
- (4) Any testimony, opinions or argument expressed by the Plaintiff or any other witness, or argument by counsel related to future costs relating to the need for future medical care being due to this accident
- (6) Any and all evidence or testimony regarding, or the mention of or argument regarding, any matters related to the existence of liability insurance
- (7) Any document from the pleadings, discovery, depositions or subpoenaed documents that are not specifically identified by Plaintiff
- (8) Any and all questions regarding a potential juror's willingness or unwillingness to render a specific decision by counsel for the Plaintiff's during the voir dire stage of this trial
- (9) Any reference to and/or evidence of issues involving any and all financial information and/or references to wealth of any of the Defendants

- (10) Any reference to prior and/or other judgments against Defendants, prior and/or other settlements by Defendants of claims, disputes, settlements, offers, or lawsuits, and/or testimony of or from other lawsuits in voir dire, opening statements, during trial and in closing arguments
- (11) Additional Motions in Limine identified as (A) through (L).

DONE THIS 10TH DAY OF MAY, 2006.

/s/ Delores R. Boyd
DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE